

Zilker Neighborhood Association

♦ 2009 Arpdale ♦ Austin, TX 78704 ♦ 512-447-7681 ♦

my
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November 9, 2015

Board of Adjustment
City of Austin Watershed Protection and
Development Review Dept.

Re: Variance requests C15-2015-0150, 1502 Kinney

Dear Chairman and Board Members:

This variance application does not meet the Board of Adjustment's requirements regarding reasonable use, hardship, and area character. In addition, there are significant discrepancies in the facts of the case presented to the Board and to the Development Review Department. Therefore, the Executive Committee of the Zilker Neighborhood Association is opposed to all of the requested variances.

Reasonable Use

The owner's application presents no evidence that she has been denied reasonable use of her property. The 7000 square foot minimum lot size for two dwellings in the SF3 zoning district has been in place for more than 30 years. In our discussions with the owner, she has said that she had no expectation of using the accessory structure as a second dwelling when she purchased the property in 2013, and that she decided to convert it only 3 months ago, after she received a special exception. She has said that she wanted only to add a second sink to an existing structure, but she has not explained why such a small structure requires two sinks. The existence of the accessory structure with a full bathroom suggests that the SF3 regulations do allow reasonable use.

Her application for a special exception was granted by the Board on Feb. 9, 2015, to maintain an existing garage structure (Exhibit 1). After members of the ZNA Zoning Committee explained to her that the terms of a special exception do not allow the change of use that she is now requesting, she revised her application to argue the opposite--that the Board should allow her to convert the structure to a second dwelling, specifically because the Board previously approved the special exception.

Hardship

The lot is flat and rectangular, like the other lots in this block, and it has no unique characteristics that prevent the owner from utilizing the lot to the full extent allowed by the SF-3

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1986. A search of the City of Austin public Web site revealed no permits issued for 1502 Kinney between 1970 and 2010, although it does show a few permits from the 1970's and numerous permits going back to 1982 for other properties in the 1500 block of Kinney, including plumbing and electrical permits. The City site shows no permit for the plumbing in the "shed" structure that the applicant says was installed before she purchased the property.

The owner has not submitted evidence of the structure's existence before 1997, and we can't find any evidence that the plumbing and electrical connections were ever permitted or that it was occupied or used as anything other than a shed. It seems clear that it was not a garage when the Special Exception was granted in February. According to the survey from 2013 and the Special Exception application, the structure is a "shed on wood skids." The application does not explain why the shed can't simply be moved out of the setbacks, eliminating the need for the variances and Special Exception.

Missing Variances: The Special Exception request did not include the encroachment on the rear setback or any mention of the concrete steps that appear to require substantially more than a 6-inch variance from the side setback. The revised variance application includes the rear setback but not the concrete steps in the side setback.

Besides the two setback variances and the lot-size variance, this structure should also require a variance for the entrance within 10 feet of a lot line (at the concrete steps within the side setback), from the requirement for a driveway to the rear dwelling, and from the parking requirement.

To summarize, the current request does not meet any of the requirements for granting such a variance, and the application does not include all the variances required to complete the project. Please deny this variance request.

Thank you for your service to the community.

(signed)

Lorraine Atherton,

ZNA Zoning Committee member, on behalf of the ZNA Executive Committee

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CITY OF AUSTIN
Board of Adjustment/Sign Review Board
Decision Sheet

DATE: Monday, February 9, 2015

CASE NUMBER: C15-2015-0026

___Y___ Jeff Jack - Chair
___Y___ Michael Von Ohlen **Motion to Grant**
___Y___ Melissa Whaley Hawthorne - Vice Chair **2nd the Motion**
___-___ Sallie Burchett
___Y___ Ricardo De Camps
___Y___ Brian King
___Y___ Vincent Harding
___-___ Will Schnier - Alternate
___Y___ Stuart Hampton - Alternate

APPLICANT: Tracy Perkins

ADDRESS: 1502 KINNEY AVE

VARIANCE REQUESTED: The applicant has requested a Special Exception under Section 25-2-476 (*Special Exception*) from Section 25-2-492 (D) (*Site Development Regulations*) to decrease the side yard setback from 5 feet (required) to 4.6 feet (requested) in order to maintain an existing garage structure constructed more than 10 years ago in an "SF-3", Family Residence Zoning District.

BOARD'S DECISION: The public hearing was closed on Board Member Michael Von Ohlen motion to Grant, Board Member Melissa Hawthorne second on a 7-0 vote;
GRANTED.

25-2-476 SPECIAL EXCEPTIONS.

(A) The Board of Adjustment shall grant a special exception for an existing residential structure, or portion of an existing structure, that violates a setback required under Chapter 25-2 (Zoning) if the board finds that the special exception meets the requirements of this section.

(B) The Board shall grant a special exception under Subsection (A) of this section if:

(1) the residential use for which the special exception is sought is allowed in an SF-3 or more restrictive zoning district;

(2) the building official performs an inspection and determines that the violation does not pose a hazard to life, health, or public safety; and

(3) the Board finds that:

(a) the violation has existed for:

(i) at least 25 years; or

(ii) at least 10 years, if the application for a special exception is submitted on or before June 6, 2016;

(b) the use is a permitted use or a nonconforming use;

(c) the structure does not share a lot with more than one other primary residence; and

(d) granting a special exception would not:

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- (i) alter the character of the area;
- (ii) impair the use of adjacent property that is developed in compliance with city code;

or

(iii) grant a special privilege that is inconsistent with other properties in the area or in the district in which the property is located.

(C) A special exception granted under this section:

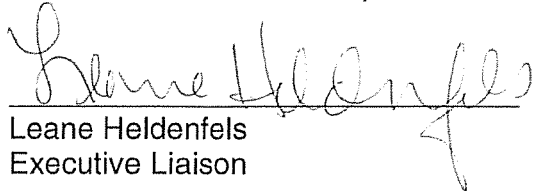
(1) applies only to the structure, or portion of a structure, for which the special exception was granted and does not run with the land;

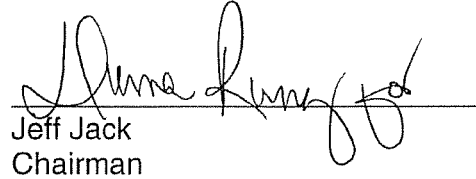
(2) may not authorize an increase in the degree of noncompliance or excuse compliance with minimum health and safety requirements; and

(3) may not authorize a remodel or addition to the existing structure, except to the extent required by the building official to meet minimum life and safety requirements.

(D) A structure granted a special exception under this section shall be treated as a non-complying structure under Chapter 25-2, Article 8 (Noncomplying Structures).

Source: Ord. 20110526-098; Ord. 20121108-091; Ord. 20130822-126.


Leane Heldenfels
Executive Liaison


Jeff Jack
Chairman

my
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Tracy Perkins
1502 Kinney Ave
Austin, TX 78704

09/09/2015

Zilker Neighborhood Association
Austin, TX 78704

Good afternoon, Zilker Neighborhood Association (ZNA):

I know you are volunteers and booked with existing requests for our neighborhood, causing limited time. I did my best to put the variance application in order, being clear and concise, doing my best to make a lighter load. The variance application is on the Board of Adjustments November 2015 agenda and reaching out to ZNA several months in advance before the review. Please let me know when you would like to meet to discuss the application.

I have lived at 1502 Kinney Ave since September 2004, renting the house for nine years before purchasing the house in May 2013. Mr. Thomas Knape, who lives at 1504 Kinney, owned both 1502 and 1504 Kinney Ave since the 1980's. Mr. Knape put a building in the backyard of 1502 Kinney Ave in the 1980's, following appropriate City of Austin processes, that includes water and electricity.

The building has been permitted for a bathroom and I have reached out to the City of Austin for a second sink, which the building is used as an Art Studio and Game Room. To add a second sink, I am seeking a variance on

- The lot is ~325 square feet short to meet the 7000 square feet requirement.
- The entrance door Mr. Knape put in is within 10 feet of a property line.
- The third required parking spot location be in the front yard using materials like gravel or pavers.

Thank you for your time.

Tracy Perkins

Heldenfels, Leane

From: Tracy P [REDACTED]
Sent: Wednesday, November 04, 2015 10:43 AM
To: Heldenfels, Leane
Subject: Re: Monday 11/9 Board of Adjustment meeting

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Hi, Leane. I would like to request postpone to January 11th, 2016 due to work conflicts. Thanks.

TLP

On Wed, Nov 4, 2015 at 10:13 AM, Heldenfels, Leane <Leane.Heldenfels@austintexas.gov> wrote:

Greetings 11/09 Board of Adjustment Applicants:

Please review attached agenda and Austin Energy report and reply to me and advise if you need to postpone or withdraw your case. Print out a copy of the agenda for Monday's hearing, as we won't have paper copies at the hearing for your use.

An electronic version of the agenda, case back up materials and Austin Energy report is posted at the Board's website, see link below:

http://www.austintexas.gov/cityclerk/boards_commissions/meetings/15_1.htm

This is same link you can use at Monday's meeting to access info via a tablet or laptop that you bring to the meeting.

If you see any back up material not shown or not clearly conveyed, you can bring 15 copies of that info to the meeting Monday. You can also bring a copy of all your information on a USB travel drive to project it as you speak about your case (presentations are limited to 5 minutes). Note that all your information downloaded to the site now has agenda page numbers, you might want to make note of those page numbers as the Board often refers to them during deliberations.

We will post **late back up** at this same link on **Monday after 3pm**. Late back up includes any replies to the public notice, other correspondence received on your case between last Tuesday and up until noon Monday. We will not have paper sets of this info at the meeting for applicants, so do check the website after 3pm in case the Board asks you a question about any of the late back up material we've received.

PUBLIC HEARING INFORMATION

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An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

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- appearing and speaking for the record at the public hearing;

- and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
 - is the record owner of property within 500 feet of the subject property or proposed development; or
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Case Number: C15-2015-0150, 1502 Kinney Avenue

Contact: Leanne Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, November 9th, 2015

Mary Owens
Your Name (please print)

☒ I am in favor
☐ I object

1508 Kinney Ave
Your address(es) affected by this application



Signature

Date

Daytime Telephone: 512 462-2100

Comments: Support applicant. Property
is in "transitional zone" into
neighborhood w/ lots of garages
already. Also, home owner made
design changes I requested which
shows a willingness to accept
changes.

Note: all comments received will become part of the public record of this case

If you use this form to comment, it may be returned to:

City of Austin-Development Services Department/ 1st Floor

Leanne Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Fax: (512) 974-6305

Scan & Email to: leane.heldenfels@austintexas.gov

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Case Number: C15-2015-0150, 1502 Kinney Avenue

Contact: Leane Heldenfels, 512-974-2202, leaneheldenfels@austintexas.gov

Public Hearing: Board of Adjustment, November 9th, 2015

BRUCE L WILAND

Your Name (please print)

☐ I am in favor
☒ I object

1510 OXFORD AVE

Your address(es) affected by this application

Bruce L Wiland

Signature

11-3-2015

Date

Daytime Telephone: 512-443-2918

Comments: See attached comments.

Note: all comments received will become part of the public record of this case

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City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Fax: (512) 974-6305

Scan & Email to: leaneheldenfels@austintexas.gov

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COMMENTS ON CASE NUMBER C15-2015-0150, 1502 KINNEY AVE

I object to a variance which would allow creation of a second dwelling unit on a lot size smaller than 7,000 square feet and would urge the Board of Adjustment (BoA) to deny this variance request. The applicant has not demonstrated that 1) the zoning regulations applicable to the property do not allow for reasonable use and 2) the hardship is unique to the property and not general to the area.

Reasonable Use

The inability to create an Additional Dwelling Unit (ADU) does not prevent the reasonable use of this property. Most of the single-family lots in the area have no ADUs, and this does not seem to prevent them from enjoying the use of their single-family home. In fact, the dramatic increase in property values for the lots with less than 7,000 sf supports the idea that the zoning regulations are reasonable or no one would be paying these increased prices.

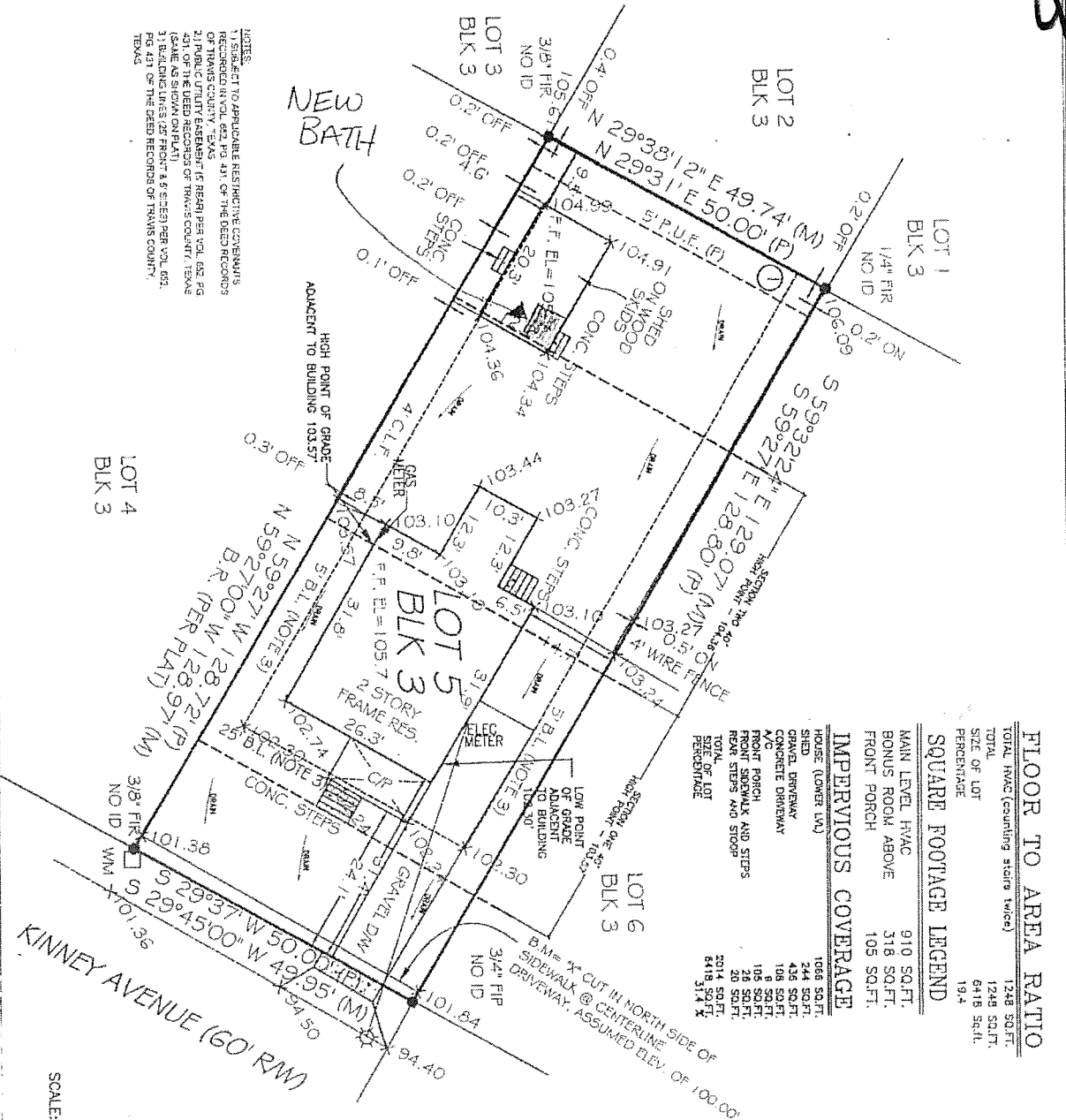
Hardship

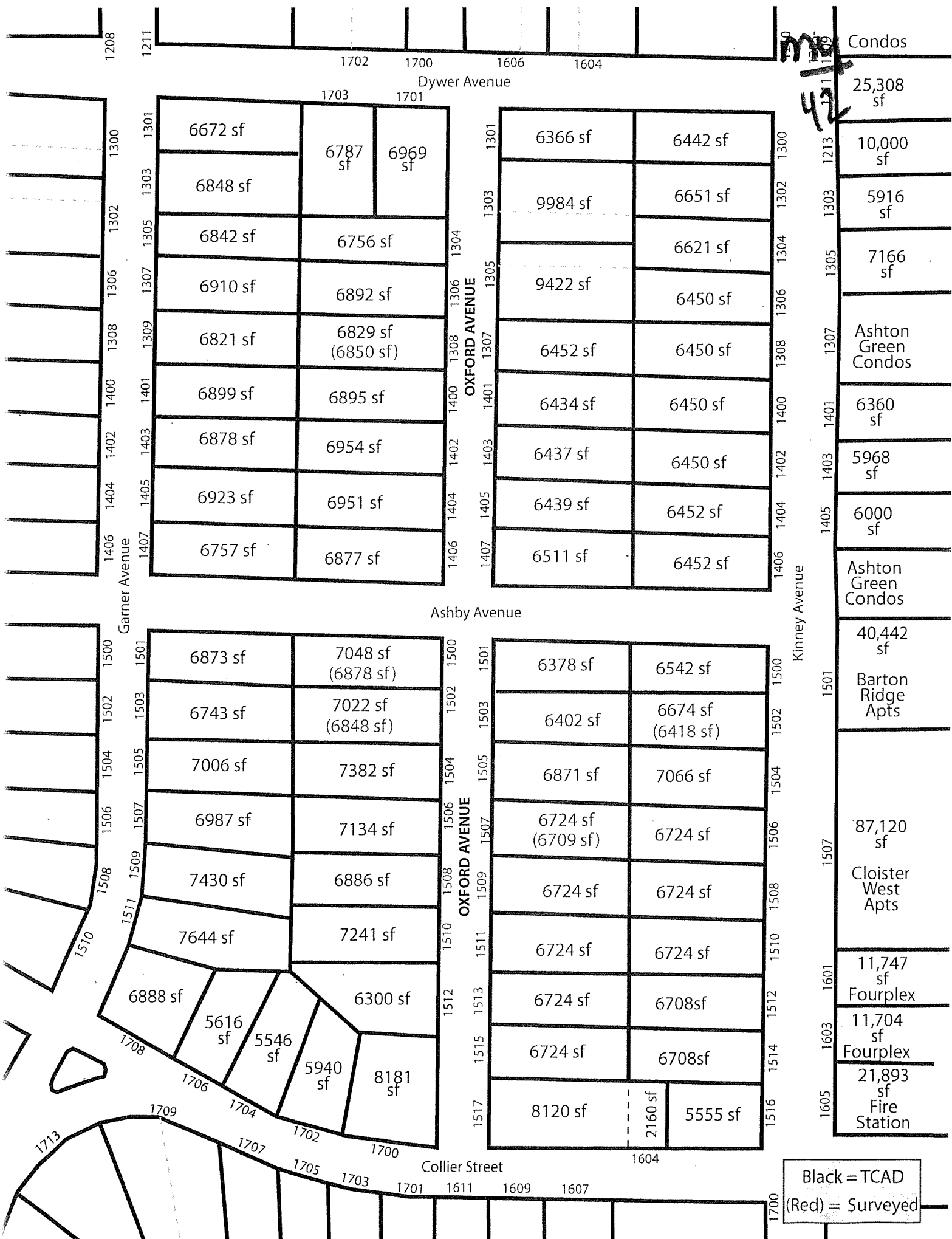
Most of the lots in the immediate vicinity are less than 7,000 sf. This "hardship" is hardly unique and is certainly general to the area. With the exception of the area of MF-3 zoning on the east side of Kinney Avenue, the vast majority of lots in the immediate vicinity of 1502 Kinney are single-family lots with less than 7,000 sf. The attached map of the immediate vicinity shows the area of the lots based on the Travis County Appraisal District (TCAD) records. Even some of the lots shown as greater than 7,000 sf at TCAD are actually less than 7,000 when you look at actual surveys conducted on the properties (these are shown in red and parentheses on the map).

I object to this variance because granting it without meeting two of the primary justifications would put the BoA in the position of setting policy. If the BoA grants this variance, there would be no reason to deny any of the other owners with lots less than 7,000 sf from obtaining a similar variance. This could lead to the creation of multiple Short-Term Rentals to which I am adamantly opposed. It is not the purview of the BoA to set policy. This should be left to the City Council. The City Council is currently debating the ordinances related to ADUs and this is where the applicant should be spending her efforts, not at the BoA.

Additionally, if the BoA grants this variance, the applicant will have to return in short order to obtain another variance. According to the notice, the applicant is requesting to decrease the minimum lot size for an ADU from 7,000 sf to 6,674 sf. Unfortunately, while this is the lot size on the TCAD rolls, this is not the actual lot size. An actual survey presented in the permit application (2015-101670 PR) for remodel at this address shows the true lot size to be 6,418 sf (see attached survey from page 4 of the application on AMANDA). The City staff probably should have notified the applicant of this inconsistency, but since they did not, she will need to come back in front of the BoA for an additional 256 sf variance because the lot is not even as large as 6,674 sf.

4/15





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Condos

25,308 sf

10,000 sf

5916 sf

7166 sf

Ashton Green Condos

6360 sf

5968 sf

6000 sf

Ashton Green Condos

40,442 sf

Barton Ridge Apts

87,120 sf

Cloister West Apts

11,747 sf

Fourplex

11,704 sf

Fourplex

21,893 sf

Fire Station

Black = TCAD
(Red) = Surveyed

me/43

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Case Number: C15-2015-0150, 1502 Kinney Avenue

Contact: Leane Heldenfels, 512-974-2202, leana.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, November 9th, 2015

Your Name (please print)

JOE BALWATTO

Your address(es) affected by this application

1308 KINNEY AVE

[Signature]

Signature

Date

Daytime Telephone: 512-351-1043

11/2/15

Comments:

Very minor changes with excellent communication.
We fully support and approve

Note: all comments received will become part of the public record of this case

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City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Fax: (512) 974-6305

Scan & Email to: leana.heldenfels@austintexas.gov

☒ I am in favor
☐ I object

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Contact: Leane Heldenfels, 512-974-2202, leana.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, November 9th, 2015

Your Name (please print)

NOBAMA STUBSON

☒ I am in favor
☐ I object

Your address(es) affected by this application

1405 KINNEY AVE.

Leana Stubson

10-31-15

Signature

Date

Daytime Telephone:

Comments:

Note: all comments received will become part of the public record of this case

If you use this form to comment, it may be returned to:

City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Fax: (512) 974-6305

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Contact: Leane Heldenfels, 512-974-2202, leana.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, November 9th, 2015

TEAUV PERKINS ☒ I am in favor
Your Name (please print) ☐ I object

1502 Kinney Ave Austin TX 78704
Your address(es) affected by this application

Leane Heldenfels 10/31/2015
Signature Date

Daytime Telephone: 512.484.2198

Comments: _____

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Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Fax: (512) 974-6305

Scan & Email to: leana.heldenfels@austintexas.gov

5/7/15

10/29/2015

Hi. I know everyone is very busy and dislike bothering you. I came by in September leaving a note and likely talking with you that I was submitting a variance to the City of Austin (COA) for a second dwelling unit to an existing structure at 1502 Kinney Avenue. I have lived in this house since September 2004 and it is my understanding the existing structure has been there since the 1980's with existing water and electricity connections.

You will receive a "Notice of Public Hearing" either today or Friday for the variance. I would appreciate a vote of "I am in favor" and including an addressed envelope with a stamp to make the process easier. It is appreciated if you could mail by Tuesday, 11/03/2015. My cell is 512-487-2178 for any questions. Thank you for your time.

Case Number: C15-2015-0150, 1502 Kinney Avenue	
Contact: Leanne Heldenfels, 512.974.2202, leanne.heldenfels@austintexas.gov	
Public Hearing: Board of Adjustment, November 9th, 2015	
Your Name (please print)	<input checked="" type="checkbox"/> I am in favor <input type="checkbox"/> I object
1402 Oxford Avenue	
Your address(es) affected by this application	
Signature	Date
11/4/15	11/3/2015
Daytime Telephone: 5124433272	
Comments:	

Tracy L. Perkins

Tracy L. Perkins

my
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10/29/2015

Hi. I know everyone is very busy and dislike botherin talking with you that I was submitting a variance to th existing structure at 1502 Kinney Avenue. I have live understanding the existing structure has been there connections.

You will receive a "Notice of Public Hearing" eith appreciate a vote of "I am in favor" and including process easier. It is appreciated if you could mai any questions. Thank you for your time.

Case Number: C15-2015-0150, 1502 Kinney Avenue	
Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov	
Public Hearing: Board of Adjustment, November 9th, 2015	
<i>Erica Taylor</i> Your Name (please print)	<input checked="" type="checkbox"/> I am in favor <input type="checkbox"/> I object
<i>1517 Oxford Ave Austin, TX 78704</i> Your address(es) affected by this application	
<i>Yucca Skye</i> Signature	<i>10/30/15</i> Date
Daytime Telephone: <i>512-983-3357</i>	
Comments:	

my
48

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Case Number: C15-2015-0150, 1502 Kinney Avenue

Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, November 9th, 2015

THOMAS KNAPE

Your Name (please print)

☒ I am in favor
☐ I object

1504 KINNEY AVE

Your address(es) affected by this application

John Knap

Signature

10/30/2015

Date

Daytime Telephone: 512 441 5694

Comments:

No objection to 2nd dwelling

Note: all comments received will become part of the public record of this case

If you use this form to comment, it may be returned to:

City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Fax: (512) 974-6305

Scan & Email to: leane.heldenfels@austintexas.gov

my
49

November 2, 2015

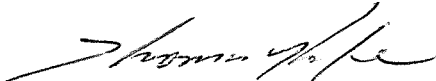
Leane Heldenfels
City of Austin, Development Services

Re: Case # C15-2015-0150, 1502 Kinney Avenue

I am writing this letter in support of a variance for a second dwelling unit to an existing structure located in the rear of single family home at 1502 Kinney Avenue, owned by Tracy Perkins.

I am Tracy's next door neighbor. The structure in question is located five feet away from my property with door and windows facing my back yard. This building is a 12 X 20 portable which was placed there in 1989 as a joint effort between Helen Clements, tenant at 1502 Kinney and my wife Deborah. Ms. Clements needed storage and Deborah wanted a place to keep her Persian cats so they decided to share. I have no objection to this building being used as housing. The 1500 block of Kinney Ave. has apartment complexes along the east and a short term rental at 1508 and a really large, busy party house at 1510. Traffic on Kinney is constant autos, walkers and bikers. Bright street lights, noise from Zilker park and South Lamar bars, along with the activity at the fire station on the corner keep this section from being a neighborhood of quiet, single family bungalows. One more residence occupied by someone who cares to live in this area will be of no bother.

Please mark me in favor of this variance,



Thomas Knape

1504 Kinney Avenue
Austin, Texas 78704

512 441 5694

10/29/2015

Hi. I know everyone is very busy and dislike bothering you. I came by in September leaving a note and likely talking with you that I was submitting a variance to the City of Austin (COA) for a second dwelling unit to an existing structure at 1502 Kinney Avenue. I have lived in this house since September 2004 and it is my understanding the existing structure has been there since the 1980's with existing water and electricity connections.

You will receive a "Notice of Public Hearing" either today or Friday for the variance. I would appreciate a vote of "I am in favor" and including an addressed envelope with a stamp to make the process easier. It is appreciated if you could mail by Tuesday, 11/03/2015. My cell is 512-487-2178 for any questions. Thank you for your time.

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Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, November 9th, 2015

Your Name (please print) Gavin Garland
1502 Oxford Ave
Your address(es) affected by this application

☒ I am in favor
☐ I object

Signature [Signature] Date _____
Daytime Telephone: 504-584-487
Comments: _____

Tracy L. Perkins

Tracy L. Perkins

10/29/2015

Hi. I know everyone is very busy and dislike bothering you. I came by in September leaving a note and likely talking with you that I was submitting a variance to the City of Austin (COA) for a second dwelling unit to an existing structure at 1502 Kinney Avenue. I have lived in this house since September 2004 and it is my understanding the existing structure has been there since the 1980's with existing water and electricity connections.

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Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, November 9th, 2015

Your Name (please print) Tanja Adams
1306 OXFORD AVE
Your address(es) affected by this application

☒ I am in favor
☐ I object

Signature [Signature] Date 10-30-15
Daytime Telephone: 928-380-3352
Comments: I AM in FAVOR !!

Tracy L. Perkins

Tracy L. Perkins

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, **you are not required to attend.** However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed application. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice will be sent.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing; and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: www.austintexas.gov/devservices.

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Case Number: C15-2015-0150, 1502 Kinney Avenue

Contact: Leane Heldenfels, 512-974-2202, leana.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, November 9th, 2015

Andrea Turnipseed
 Your Name (please print)

☒ I am in favor
☐ I object

1514 Kinney Ave Austin TX 78704
 Your address(es) affected by this application

[Signature]
 Signature

10.30.15
 Date

Daytime Telephone: *512-960-0178*

Comments:

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City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Fax: (512) 974-6305

Scan & Email to: leana.heldenfels@austintexas.gov

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Contact: Leane Heldenfels, 512-974-2202, leaneheldenfels@austintexas.gov

Public Hearing: Board of Adjustment, November 9th, 2015

Robert Lawrence Curren

Your Name (please print)

☒ I am in favor
☐ I object

1400 Kinney Ave

Your address(es) affected by this application

Robert Lawrence Curren

Signature

Date

Daytime Telephone:

512-444-4246

Comments:

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Public Hearing: Board of Adjustment, November 9th, 2015

Your Name (please print) _____

☒ I am in favor
☐ I object

Your address(es) affected by this application _____

Signature _____

Date _____

Daytime Telephone: _____

Comments: _____

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